GOVERNMENT OF INDIA
FINANCE
LOK SABHA

STARRED QUESTION NO:140
ANSWERED ON:04.03.2016
Black Money
Choudhary Shri Ram Tahal;Jadhav Shri Prataprao Ganpatrao

Will the Minister of FINANCE be pleased to state:

(a) whether the Government has made an assessment of black money stashed abroad and if so, the details thereof;

(b) whether the Government has obtained information of foreign accounts of Indians having money in foreign banks/countries including bank accounts of Indians from Swiss Confederation;

(c) if so, the details thereof along with the reaction of the foreign banks/countries/Swiss Confederation in this regard; and

(d) the proportion of holding black money in those foreign accounts along with the action taken against the offenders and success achieved so far to bring back the black money?

Answer

FINANCE MINISTER
(SHRI ARUN JAITLEY)

(a) to (d): A statement is laid on the table of the House.
STATEMENT REFERRED TO IN REPLY TO LOK SABHA STARRED QUESTION NO.*140, RAISED BY SHRI RAM TAHAL CHOUDHARY AND SHRI PRATAPRAO JADHAV, HON'BLE MEMBERS OF PARLIAMENT, FOR REPLY ON 4th MARCH,2016

There is no official assessment of black money stashed abroad. Various non-governmental organizations and economists in the past have indicated widely varying estimations regarding illicit financial flows out of the country. Such estimations appear to be based upon different sets of facts, assumptions, presumptions, etc. leading to widely varying inferences. Such estimations also appear to lack unanimity and reliability. The subject matter, therefore, does not appear amenable to reliable estimation.

Receipt of information of foreign accounts of Indians, under the available legal instruments including Double Taxation Avoidance Agreements (DTAAs)/Tax Information Exchange Agreements (TIEAs)/Multilateral Conventions [tax treaties], is an on-going process. All deposits/money of Indians kept in foreign banks may not necessarily be unaccounted/black money. Whether such deposit/money is unaccounted is subject matter of investigation.

Whenever such information is received, appropriate action is taken under relevant laws. Such action under direct taxes laws includes searches, surveys, enquiries, assessment of income, levy of taxes, penalties, etc. and filing of prosecution complaints in criminal courts, wherever applicable. Assessments completed and penalties levied through the quasi-judicial process of law may be subject matter of appeal before various appellate authorities including Hon'ble High Courts and Hon'ble Supreme Court. With a view to specifically and effectively handle the issue of black money stashed abroad, the Government has enacted a new law 'The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015' which has come into effect from 01.07.2015 and, inter alia, provides for more stringent penalties and prosecutions. In light of the above on-going process, investigation, assessment, penal actions, prosecutions, etc. in the cases involving black money stashed abroad are at different stages in different cases.

Information received under the provisions of the tax treaties is governed, inter alia, by confidentiality and usage clause in such instruments and could be disclosed only to the prescribed persons/authorities. Further, disclosure of information regarding specific taxpayers is prohibited except as provided under section 138 of the Income-tax Act, 1961.

As submitted above, the tax, interest and penalties form part of the total liability of each assessee and is recovered in accordance with law. There are certain provisions for recovery of the same from assets kept abroad in accordance with legal instruments with the foreign jurisdictions concerned. As per scheme of the Income-tax Act, 1961, only the demand/liability raised in relation to the total income assessed is recoverable and not the undisclosed income/black money per-se. Under the newly enacted Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, the offence of willful attempt to evade tax, penalty or interest in relation to undisclosed foreign income and assets has been made a scheduled offence for the purposes of the Prevention of Money-laundering Act, 2002 (PMLA). This enables attachment and confiscation of the proceeds of crime of wilful attempt to evade such tax, etc., eventually leading to recovery of such undisclosed foreign income and assets/black money stashed abroad. Further, where property/proceeds of crime is taken or held outside the country, PMLA has been amended through the Finance Act, 2015 enabling attachment and confiscation of property equivalent in value held within the country.